

## Department of State

## § 96.5

DHS or Central Authority forms; and providing advice and counsel to accredited agencies, temporarily accredited agencies, approved persons, or prospective adoptive parent(s) on how to comply with the Convention, the IAA, and the regulations implementing the IAA.

*Person* means an individual or a private, for-profit entity (including a corporation, company, association, firm, partnership, society, or joint stock company) providing adoption services. It does not include public domestic authorities or public foreign authorities.

*Post-adoption* means after an adoption; in cases in which an adoption occurs in a Convention country and is followed by a re-adoption in the United States, it means after the adoption in the Convention country.

*Post-placement* means after a grant of legal custody or guardianship of the child to the prospective adoptive parent(s), or to a custodian for the purpose of escorting the child to the identified prospective adoptive parent(s), and before an adoption.

*Primary provider* means the accredited agency, temporarily accredited agency, or approved person that is identified pursuant to § 96.14 as responsible for ensuring that all six adoption services are provided and for supervising and being responsible for supervised providers where used.

*Public domestic authority* means an authority operated by a State, local, or tribal government within the United States.

*Public foreign authority* means an authority operated by a national or sub-national government of a Convention country.

*Secretary* means the Secretary of State, the Assistant Secretary of State for Consular Affairs, or any other Department of State official exercising the Secretary of State's authority under the Convention, the IAA, or any regulations implementing the IAA, pursuant to a delegation of authority.

*State* means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands.

*Supervised provider* means any agency, person, or other non-governmental entity, including any foreign entity,

regardless of whether it is called a facilitator, agent, attorney, or by any other name, that is providing one or more adoption services in a Convention case under the supervision and responsibility of an accredited agency, temporarily accredited agency, or approved person that is acting as the primary provider in the case.

*Temporarily accredited agency* means an agency that has been accredited on a temporary basis by an accrediting entity, in accordance with the standards in subpart N of this part, to provide adoption services in the United States in cases subject to the Convention. It does not include an accredited agency.

### § 96.3 [Reserved]

## Subpart B—Selection, Designation, and Duties of Accrediting Entities

### § 96.4 Designation of accrediting entities by the Secretary.

(a) The Secretary, in the Secretary's discretion, will designate one or more entities that meet the criteria set forth in § 96.5 to perform the accreditation (including temporary accreditation) and/or approval functions. Each accrediting entity's designation will be set forth in an agreement between the Secretary and the accrediting entity. The agreement will govern the accrediting entity's operations. The agreements will be published in the FEDERAL REGISTER.

(b) The Secretary's designation may authorize an accrediting entity to accredit (including temporarily accredit) agencies, to approve persons, or to both accredit agencies and approve persons. The designation may also limit the accrediting entity's geographic jurisdiction or impose other limits on the entity's jurisdiction.

(c) A public entity may only be designated to accredit agencies and approve persons that are located in the public entity's State.

### § 96.5 Requirement that accrediting entity be a nonprofit or public entity.

An accrediting entity must qualify as either:

(a) An organization described in section 501(c)(3) of the Internal Revenue

Code of 1986, as amended, that has expertise in developing and administering standards for entities providing child welfare services; or

(b) A public entity (other than a Federal entity), including, but not limited to, any State or local government or governmental unit or any political subdivision, agency, or instrumentality thereof, that is responsible for licensing adoption agencies in a State and that has expertise in developing and administering standards for entities providing child welfare services.

**§ 96.6 Performance criteria for designation as an accrediting entity.**

An entity that seeks to be designated as an accrediting entity must demonstrate to the Secretary:

(a) That it has a governing structure, the human and financial resources, and systems of control adequate to ensure its reliability;

(b) That it is capable of performing the accreditation or approval functions or both on a timely basis and of administering any renewal cycle authorized under § 96.60;

(c) That it can monitor the performance of agencies it has accredited or temporarily accredited and persons it has approved (including their use of any supervised providers) to ensure their continued compliance with the Convention, the IAA, and the regulations implementing the IAA;

(d) That it has the capacity to take appropriate adverse actions against agencies it has accredited or temporarily accredited and persons it has approved;

(e) That it can perform the required data collection, reporting, and other similar functions;

(f) Except in the case of a public entity, that it operates independently of any agency or person that provides adoption services, and of any membership organization that includes agencies or persons that provide adoption services;

(g) That it has the capacity to conduct its accreditation, temporary accreditation, and approval functions fairly and impartially;

(h) That it can comply with any conflict-of-interest prohibitions set by the Secretary in its agreement;

(i) That it prohibits conflicts of interest with agencies or persons or with any membership organization that includes agencies or persons that provide adoption services; and

(j) That it prohibits its employees or other individuals acting as site evaluators, including, but not limited to, volunteer site evaluators, from becoming employees or supervised providers of an agency or person for at least one year after they have evaluated such agency or person for accreditation, temporary accreditation, or approval.

**§ 96.7 Authorities and responsibilities of an accrediting entity.**

(a) An accrediting entity may be authorized by the Secretary to perform some or all of the following functions:

(1) Determining whether agencies are eligible for accreditation and/or temporary accreditation;

(2) Determining whether persons are eligible for approval;

(3) Overseeing accredited agencies, temporarily accredited agencies, and/or approved persons by monitoring their compliance with applicable requirements;

(4) Investigating and responding to complaints about accredited agencies, temporarily accredited agencies, and approved persons (including their use of supervised providers);

(5) Taking adverse action against an accredited agency, temporarily accredited agency, or approved person, and/or referring an accredited agency, temporarily accredited agency, or approved person for possible action by the Secretary;

(6) Determining whether accredited agencies and approved persons are eligible for renewal of their accreditation or approval on a cycle consistent with § 96.60;

(7) Collecting data from accredited agencies, temporarily accredited agencies, and approved persons, maintaining records, and reporting information to the Secretary, State courts, and other entities; and

(8) Assisting the Secretary in taking appropriate action to help an agency or person in transferring its Convention cases and adoption records.

(b) The Secretary may require the accrediting entity: